

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

CHARTER COMMUNICATIONS, LLC

and

Case 07–CA–140170

JONATHAN FRENCH

and

Case 07–CA–145726

RAYMOND SCHOOF

and

Case 07–CA–147521

JAMES DEBEAU

ORDER DENYING MOTION FOR RECONSIDERATION¹

The Respondent’s motion for reconsideration of the Board’s Decision and Order reported at 366 NLRB No. 46 (2018) is denied.² The Respondent has not identified any material error or demonstrated extraordinary circumstances warranting reconsideration under Section 102.48(c)(1) of the Board’s Rules and Regulations.³

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² In response to the Respondent’s motion for reconsideration, the General Counsel filed a brief in opposition

³ The Respondent argues that by finding that complaint paragraphs 7, 8(a)-(d), 10, and 13 were not barred by Sec. 10(b) of the Act, the Board effectively overruled, sub silentio, precedent holding that timely and untimely allegations are not factually related “merely because [they] pertain to events that occurred during or in response to the same union campaign.” *Carney Hospital*, 350 NLRB 627, 630 (2007); see also *SKC Electric, Inc.*, 350 NLRB 857, 859 (2007). However, in the underlying decision, the Board expressly acknowledged *Carney Hospital* but found that the otherwise untimely allegations in this case were factually related to the timely allegations not merely because they all occurred in response to the union handbilling activity. See 366 NLRB No. 46, slip op. at 2 fn. 7, 3. Instead, the Board found that the timely and untimely

Dated, Washington, D.C., June 7, 2018.

Mark Gaston Pearce, Member

Lauren McFerran, Member

William J. Emanuel, Member

(SEAL)

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allegations “represent[ed] a progression of events relating to the Respondent’s response to the union campaign that culminated in the discharge of employee [Jonathan] French,” and explained how the timely and untimely allegations shared a causal nexus. See *id.*, slip op. at 3. The Board ultimately concluded that the timely and untimely allegations were factually related because they “all relate[d] to the Respondent’s belief that French was the mastermind of the union activity and to the steps that it allegedly took to thwart that activity.” *Ibid.* (citing *Metro One Loss Prevention Services Group*, 356 NLRB 89, 100 (2010) (dismissing a Sec. 10(b) defense where “the allegations in the charges all relate[d] to the [r]espondent’s reaction to the [u]nion’s campaign and [an employee’s] prominent role therein, and its attempt to thwart that campaign”)). Thus, the Board adhered to *Carney Hospital* and its progeny in finding that complaint paragraphs 7, 8(a)-(d), 10, and 13 were not barred by Sec. 10(b).